UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

EBAY INC., Plaintiff, vs. DIGITAL POINT SOLUTIONS, INC.; SHAWN HOGAN; KESSLER's FLYING CIRCUS; THUNDERWOOD HOLDINGS, INC.; TODD DUNNING; DUNNING ENTERPRISES, INC.; BRIAN DUNNING; BRIANDUNNING.COM; and DOES 1-20, Defendants.	CASE NO. C 08-4052 **[PROPOSED] ORDER GRANTING MOTION OF DEFENDANTS THUNDERWOOD HOLDINGS, INC., BRIAN DUNNING AND BRIANDUNNING.COM'S TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT**

The motion of Defendants THUNDERWOOD HOLDINGS, INC., BRIAN DUNNING and BRIANDUNNING.COM for dismissal of Plaintiff eBAY, INC.'s First Amended Complaint pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(6) and/or 12(b)(3) came on regularly for hearing before this Court on December 12, 2008. The parties were represented by their respective counsel of record. Having fully considered the briefs, oral argument of counsel, and all other matters presented to the Court, IT IS HEREBY

ORDERED THAT Defendants THUNDERWOOD HOLDINGS, INC., BRIAN DUNNING and BRIANDUNNING.COM'S motion to dismiss is GRANTED and Plaintiff's First Amended Complaint is dismissed as against them.

Dated: ______________________

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Honorable Jeremy Fogel
United States District Court Judge